

## **FLOOD CONTROL ADVISORY BOARD**

### **MINUTES**

April 24, 2002

Chairman Patel called the monthly meeting of the Flood Control Advisory Board to order at 3:28 p.m. on Wednesday, April 24, 2002.

**Board Members Present:** Hemant Patel, Chairman; Shirley Long, Secretary; Melvin Martin; Mike Saager.

**Board Members Absent:** Scott Ward, Vice Chair; Tom Callow, Ex Officio; Paul Cherrington, Ex Officio.

**Staff Members Present:** Mike Ellegood, Chief Engineer and General Manager; Julie Lemmon, General Counsel; Dick Perreault, CIP/Policy Branch Manager; Tim Phillips, Area Planning Manager; Tim Murphy, Flood Delineation Branch Manager; Barbara Hummell, Contracts Manager; Todd Williams, Water Quality Branch Manager; Harry Hollander, Organizational Development and Training Manager; Shelby Brown; Angie Hardesty; Matthew Oller; Paul Stears; Kathy Smith, Clerk of the FCAB; Lorena Mosso, Administrative Coordinator.

**Guests Present:** Kofi Awumah, Michael Baker Jr., Inc; Brian Fry, Dibble & Assoc.; Teri George, DEA; George Lopez-Cepero, Primatech; Tim Morrison, HDR Engineering; Hasan Mushtaq, City of Phoenix; Herman Prutiznba, Entellus; Daryl Racz, MCDOT; Rebecca Timmer, Dibble & Assoc.; Larry Walker, SSR; Michael Ziegler, City of Phoenix.

#### 1) APPROVAL OF THE MINUTES OF THE MEETING OF MARCH 27, 2002

**ACTION:** It was moved by Ms. Long and seconded by Mr. Martin to approve the minutes as submitted. The motion carried unanimously.

#### 2) SANOKAI WASH

Tim Phillips, Area Planning Manager, presented IGA FCD 2002A002 for a partnership with the Towns of Queen Creek and Gilbert on Sanokai Wash.

The Queen Creek and Sanokai Wash Hydraulic Master Plan was completed about a year and a half ago. The Sanokai Wash channelization was one component within the study as was Queen Creek. The floodplain delineation that was done on Sanokai Wash was completed several years

ago. The delineation has been re-done, but has not been formally submitted to FEMA at this time because of pending development. Overall there are over 1100 acres in the floodplain that would be subject to the Floodplain Regulations. The intent of the channelization process is to contain that floodplain within a designed channel.

The purpose for the IGA is strictly for design – not for construction, land acquisition, utility relocation – strictly for design. The landowners along the corridor have expressed a desire to participate within some sort of public-private partnership to work the Sanokai Wash Channelization.

The preliminary cost for design is estimated at about \$700,000 and ultimately the channelization for the 2.25 miles will be about \$5 million. The cost share is 50% for the District, 37.5 % for the Town of Gilbert, and 12.5% for the Town of Queen Creek. The ultimate intent has been that the landowners will participate in the land dedications for the channel so that the partners will not have to purchase land.

Discussion:

*Martin:* The road doesn't go through now?

*Phillips:* No.

*Martin:* And Gilbert brought the project to us?

*Phillips:* Gilbert, Queen Creek and the landowners brought it collectively to us looking for some collective participation.

*Martin:* But the landowners don't want to give up the right-of-way?

*Phillips:* The landowners are aligned with this. The only landowner that I know that might have an issue is the owner of the 11-acre parcel. Gilbert owns some of the land and some is owned by City of Mesa.

*Martin:* Is any of that \$700,000 for design going toward the road?

*Phillips:* No, it's all for the channelization – all for the flood control feature.

*Martin:* What would happen if they took the road in along side the existing wash?

*Phillips:* In the event of a 100-year event, the road would probably be covered with water. The challenge on Sanokai Wash, as I said, is that it is very wide and very flat, so you can't put the road right next to the channel because the area inundated during the 100-year event is half a mile to three-quarters of a mile wide. There's not really a very well defined channel like Queen Creek is or some of the other washes. It's very flat, you wouldn't even know it was there if there wasn't a little dip in the road and a little line of trees down at the bottom. But the fact is, the flows that come off of Sanokai Wash, two-thirds to three-quarters of that which come off of Queen Creek – is 2,000+ cfs.

*Martin:* My thinking is we're in a process of making a piece of land right now that's not worth anything worth a lot of money by putting this project in. Because the landowners want this done, is it fair to all the taxpayers to participate in a project that obviously when they bought the property knew the wash was there and obviously they knew it flooded on occasions.

*Phillips:* Both Queen Creek and Gilbert have expressed an interest in this from their city's perspective.

*Martin:* For their traffic flow?

*Phillips:* No, because of its impact on development. They are coming to us asking if we will participate with them in this collective solution. The other key here is that this is only for design. This essentially sets the parameters for the wash – the design and cross section for the wash. It doesn't say we're going to build a wash or we're going to build the channel ourselves, we're the public partners. I really see it as first and foremost a tool by which the two communities working with the developers can get the channel to be built. But in order to do that, they need to know what does this thing really need to look like. They have the ability to ask for dedications from the

respective development along either side. So far in the discussions that I've had with the landowners, they all understand the concept that we are presenting to them – that the public parties will do the design, but any land is their contribution to the benefits that they will ultimately receive.

**ACTION:** It was moved by Ms. Long and seconded by Mr. Saager to approve staff recommendations. The motion carried 3-1 with aye votes from Ms. Long, Mr. Saager, and Mr. Patel and a nay vote from Mr. Martin.

### 3) PROPOSED FY 02/03 FLOODPLAIN DELINEATION PROGRAM

Tim Murphy, Flood Delineation Branch Manager, presented next year's Floodplain Delineation Program for the Advisory Board's endorsement to be included in the FY 2002/2003 budget.

There are several purposes for why the District does floodplain delineations. A.R.S. 48-2609 deals with floodplain management and the requirement that flood control districts conduct floodplain delineations. Delineations are also done as part of a National Flood Insurance Program. The NFIP requires that local communities keep their floodplain maps up to date. These two laws and regulations have intent behind them and that is to minimize the loss of life and property. With good flood hazard identification this goal can be achieved. There is also a need to minimize the need and necessity to mitigate or remediate flood problems. And finally, the delineations are necessary for development review, planning purposes, and future ADMS's and ADMP's.

The benefits of doing studies are that they provide the citizens in the communities with an accurate picture of flood hazards. It also provides the District staff and local community staff with the supporting technical information. The study results will be sent to FEMA to update flood insurance rate maps. An additional benefit is that the flood hazard information is put on the Flood Insurance Rate Maps and anyone interested in buying the property can review the hazards before purchasing it. Finally, the information is a very important part of the future ADMS's and ADMP's.

For FY 2002/2003, the District is proposing to begin three new studies. Two of these are detailed studies – the Tempe Canal and the Chandler/Gilbert studies. The total estimated cost for the Tempe Canal is \$160,000 and the Chandler/Gilbert study is \$875,000. The third study is the Waterman Wash Study, which will be an approximate study. The total cost for the Waterman Wash Study is estimated at \$315,000. The three new studies have a total cost of \$1,350,000 and will take two years to complete.

#### Discussion:

*Martin:* I didn't see, in any of the maps presented to us, where we've already studied and the changes we've made, and when we put the drainage that we put in like in Gilbert and Chandler and that area. I know we've made plans and took it out of the floodplain. In the presentation there was not one map that shows where we spent all that money and the area that you're looking at in Mesa. It's going to benefit Mesa and the people of Mesa, but they're not participating in the cost of the study. When we put in drainage and we take land out like we do Laveen, we know the maps are going to change. Why wasn't that shown on that map? That disturbed me, spending more money after we've already spent money.

*Ellegood:* You are right; we have made a tremendous investment, particularly in the Tempe, Chandler, and Gilbert areas. We know that since they were last delineated there have been

substantial changes. A lot of these have been picked up on Conditional Letters of Map Revision (CLOMR's) and Letters of Map Revision (LOMR's), all of which are to be consolidated into the study. What you are seeing there is what we currently show on our floodplain maps, it's probably changed and that's why we are doing it. The point though that you bring up is why aren't the communities of Chandler, Gilbert, Tempe, and Mesa participating in that as cost share. I would have to say that maybe we ought to look at that. Typically, when we get into delineations, it's part of our charter and we do it for residents of the county based on the property tax revenue that we collect as part of our routine job. We look at cost share when we get into capital improvement projects. But we haven't typically looked at that in the past and maybe we should. I don't know what the reaction would be, but maybe that's a source of revenue.

*Martin:* I believe it should be done; I believe it should be taken out and that people shouldn't be paying for flood insurance when they don't need it. It just disturbed me that we didn't see what was already delineated out of there.

*Lemmon:* Floodplain delineations is almost the only thing that you are required to do by Statute and the all of the cities in the county could opt out of doing that and it would fall back on the District and we would have to do it out of our revenues by Statute – the delineations, not the capital improvement projects. Delineating is a responsibility that the Legislature gave to the Flood Control District, unless the cities choose to do their own delineations and to run their own program. This is one of the things we do have an obligation to fund and the Statute says we shall delineate in areas where development is imminent or ongoing. That's why we do it and we don't look for cost sharing because statutorily it's been given to us. That doesn't mean the cities couldn't participate if they wish to, but ultimately, if it needs to be done, I think that the Legislature expected us to use our tax money to do those delineations.

**ACTION:** It was moved by Ms. Long and seconded by Mr. Saager to approve staff recommendations. The motion carried 3 to 1 with aye votes from Ms. Long, Mr. Saager, and Mr. Patel and a nay vote from Mr. Martin.

#### 4) PERMIT REVIEW FEE ADJUSTMENTS

Barbara Hummell, Contracts Manager, presented the District's policy for administering Right-of-Way Permits for those who want access to Flood Control District properties and structures under Resolution FCD 2002R002.

The Right-of-Way Permit defines a way in which the District can grant use of their structures to a permittee. The Right-of-Way Permit also serves as a right-of-entry function – that is they have a temporary function in which they only want to use the property for a short period of time.

When the District receives such requests, they first have to think as a property owner. District staff must consider how to deal with people who want access to the property; think in terms of the District's liability and protecting the public safety. Therefore, through this Right-of-Way Permit process, District staff address this and control the activities of others who enter onto District property.

Ms. Hummell said there are four major changes that have affected the District's structures requiring District staff to write stronger language so that issues of public safety and liability are covered. The ADWR and new dam technology have made dam safety requirements more stringent for the District; therefore, changes in the Resolution will allow District staff to better enforce compliance with the Federal and ADWR Regulations. Section 404 issues are new to the permit process. District staff must verify Section 404 concerns with these permits in order to

avoid liability with ADWR and the Corps. The County will soon become a permittee required under Phase II of the NPDES Stormwater Permit Program.

Ms. Hummell discussed the burdened costs (overhead costs for administering the fees), current fees and proposed fees. She pointed out that the District will not be able to totally recover the burdened costs, and there are four reasons why. First, the permit request may not affect the District's property, but staff must go through research to look into whether it does or not. The District may incur the cost, but cannot charge the applicant if it is not District property. Second, the permit applicant may decide to abandon the project after they've received the first review of the request; or the request may be denied. In either case, the District cannot charge the applicant because there was no permit issued. Third, the District has entered into IGA's with three municipalities in which each other's permit fees are waived. This is also done for specific projects that occur, but yet the costs are incurred to investigate these permits. Finally, fees may be waived when the District finds that the permittee will make an improved permanent change to the District's structure.

Ms. Hummell asked that, for all the reasons explained about external factors now impacting District structures, the necessity to ensure structural integrity and public safety, and recovering some of the internal costs associated with issuing our ROW Permits, the Flood Control Advisory Board endorse and recommend that the Board of Directors adopt Resolution FCD 2002R002.

#### Discussion

*Long:* When a permit is issued and the Flood Control District receives its fee, is this an annual fee or a one-time fee? If this isn't an annual fee, why not?

*Hummell:* These are temporary types of permits, not permanent types of permits that we issue. We issue for the duration of when the applicant will need the property. Often times they give us duration of when they need to get on the structure. For example, if they are running utility lines, they know the construction time. Therefore, the permit is only issued to allow them to come onto the property for that specific amount of time.

*Long:* So each time is a negotiated process. In other words, if they are on the Flood Control District property for several years, is this possible? Is this an annual fee or a one-time fee?

*Hummell:* There are one-time fees and there are also some annual lease fees. We do have some that we allow access to our properties over multiple years of use. The majority of the ones we are talking about are the ones that are submitted for more of a temporary use.

*Long:* What is considered temporary? Is this under a year?

*Hummell:* It could be under a year. It's a length of time that depends on when they need to be on the property. When we issue the permit to the people and they tell us that they only need it for a certain amount of time, the time is up and they still need to use it, we will then extend the time and we will then charge an extension of fees to them. Basically they tell us how long they need the permit for.

*Ellegood:* Most of these are temporary construction access requests. For example, Pulice Construction under contract with ADOT had to construct a new bridge over the Beardsley Canal. To make life easy for them in order to access their borrow area, they wanted to use a maintenance road that we had constructed along McMicken Dam. They applied to our Contracts Branch for a permit to use our maintenance road to haul material in during the duration of the their construction, anticipated to be eight months. That's the kind of thing that we normally do. There are others such as utility easements where a utility company will want to come in and put a line across our structure. That is a longer-term easement request.

*Long:* What do the sand and gravel people usually have? I was just wondering, I remember we had an incident here with Rockland. I was curious about an update on that, but I know we don't

have time. They were operating without a permit, are they still being allowed to do that? Obviously, we wouldn't be in the deficit position if we weren't getting any money from people like that gentleman.

*Ellegood:* It's a different permit. The Rockland case involves a floodplain use permit. This is a permit to use some of our property.

*Long:* So we're not talking riverbed?

*Ellegood:* We're not talking about a floodplain use permit, which gives us land use authority over somebody else's land. This is our property that you and I own as taxpayers.

*Patel:* Are the changes in the insurance requirements being mandated by another branch of the County?

*Hummell:* Yes, the insurance is being changed.

*Patel:* And the indemnification clauses?

*Hummell:* The indemnification, no. The County's Risk Management Department has set the standards for the insurance rates, which is the minimum that should be accepted. We need to comply with that. The indemnification portion was not part of their changes.

*Patel:* All I saw in the draft was just the insurance limits, so it's not a special insurance process?

*Hummell:* There is a form called a Certificate of Insurance, but that has the limits that you see there.

**ACTION:** It was moved by Mr. Saager and seconded by Mr. Martin to approve staff recommendations. The motion carried unanimously.

5) **STORMWATER QUALITY ISSUES IN MARICOPA COUNTY**

**ACTION:** It was moved by Mr. Martin and seconded by Ms. Long to table this item until the next meeting. The motion carried unanimously.

6) **MARICOPA COUNTY EMPLOYEE GAIN SHARING COMPENSATION PLAN**

**ACTION:** It was moved by Mr. Martin and seconded by Ms. Long to table this item until the next meeting. The motion carried unanimously.

7) **COMMENTS FROM THE CHIEF ENGINEER AND GENERAL MANAGER**

Mike Ellegood mentioned that the budget for next year is moving ahead. The lawsuits with State Land and Rockland Materials are moving ahead in the judicial process. There are no major issues coming up facing the District. Just yesterday a proposal was made to surrender the Drainage Program to Planning & Development. That's the program like the Valdez case you heard earlier. The District is looking into that, there may result in some economies there if that happens.

8) **SUMMARY OF RECENT ACTIONS**

Actions of the Board of Supervisors were included in the FCAB packet.

9) OTHER BUSINESS AND COMMENTS FROM THE PUBLIC

There was no other business or comments from the public.

The meeting was adjourned at 4:22 p.m. by general consent.

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Shirley Long  
Secretary of the Board

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Kathy Smith  
Clerk of the Board